

RULE 63 (37 CFR § 1.63)  
DECLARATION  
FOR PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled LOW PROFILE OPTICAL HEAD, the specification of which is identified as Attorney File No. 4154-9 and attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 CFR 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)		<u>Day/Month/Year Filed</u>	Priority Claimed	
<u>Number</u>	<u>Country</u>		<u>Yes</u>	<u>No</u>

I hereby claim the benefit under 35 U.S.C. 120/365 of all United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 CFR 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(1) Inventor's Signature Ian Redmond Date 3/14/00

Inventor's Name (typed): Ian Redmond

Citizenship: United Kingdom

Residence: 2065 Floral Drive  
Boulder, Colorado 80304

Post Office Address\*: Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

(2) Inventor's Signature Bernard Bell Date 3/14/2000

Inventor's Name (typed): Bernard Bell

Citizenship: United States

Residence: 9920 Phillips Road  
Lafayette, Colorado 80026

Post Office Address\*: Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

(3) Inventor's Signature David L. Blankenbeckler Date 3/14/00

Inventor's Name (typed): David L. Blankenbeckler

Citizenship: United States

Residence: 2141 Ridgeview Way  
Longmont, Colorado 80501

Post Office Address\*: Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

(4) Inventor's Signature Michael F. Braitberg Date 3/14/00

Inventor's Name (typed): Michael F. Braitberg

Citizenship: United States

Residence: 440 Broken Fence Road  
Boulder, Colorado 80302

Post Office Address\*: Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

(5) Inventor's Signature Robert D. Freeman Date 3/14/00

Inventor's Name (typed): Robert D. Freeman

Citizenship: United States

Residence: 4747 Anne Place  
Erie, CO 80516

Post Office Address\*: Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

37 CFR §1.56(a), and (b)  
DUTY TO DISCLOSE INFORMATION MATERIAL  
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

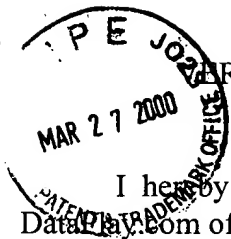
(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.\*

\*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."



VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am an official empowered to act on behalf of the small business concern, DataRay.com of 6200 Lookout Road, Boulder, Colorado 80301.

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled LOW PROFILE OPTICAL HEAD and identified as Attorney File No. 4154-9, described in application Serial No. 09/457,104, filed on December 7, 1999.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

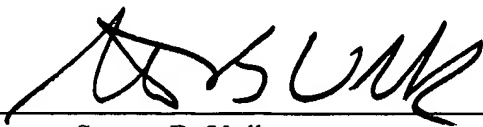
\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: 2-29-00

By:   
Steven B. Volk  
President  
6200 Lookout Road  
Boulder, Colorado 80301



## POWER OF ATTORNEY

On behalf of DataPlay.com, a Delaware corporation having a principal place of business at 6200 Lookout Road, Boulder, Colorado 80301 being the assignee of and owning all right, title and interest in the invention entitled LOW PROFILE OPTICAL HEAD, for which application for Letters Patent of the United States has been made by Robert D. Freeman, Michael F. Braitberg, David H. Davies, Ian Redmond, Bernard Bell, said application having been filed on December 7, 1999, receiving Serial No. 09/457,104, and further identified as Attorney File No. 4154-9, I, Steven B. Volk, President of DataPlay.com, hereby appoint Richard L. Hughes, Registration No. 31,264; David F. Zinger, Registration No. 29,127; Craig C. Groseth, Registration No. 31,713; Michael L. Tompkins, Registration No. 30,980; Sabrina C. Stavish, Registration No. 33,374; Todd P. Blakely, Registration No. 31,328; Lewis D. Hansen, Registration No. 35,536; Joseph E. Kovarik, Registration No. 33,005; Gary J. Connell, Registration No. 32,020; Wannell M. Crook, Registration No. 31,071; Douglas W. Swartz, Registration No. 37,739; Bruce A. Kugler, Registration No. 38,942; Robert R. Brunelli, Registration No. 39,617; Tejpal S. Hansra, Registration No. 38,172; Dana L. Hartje, Registration No. 40,638; Don D. Cha, Registration No. 40,945; Angela Dallas-Pedretti, Registration No. 42,460; Benjamin B. Lieb, Registration No. 42,801; Bradley M. Knepper, Registration No. 44,189; Theresa A. Brown, Registration No. 32,547; John C. Scott, Registration No. 38,613 and Miriam R. Drickman, Registration No. 42,499 of SHERIDAN ROSS P.C., 1560 Broadway, Suite 1200, Denver, Colorado 80202-5141, telephone number (303) 863-9700, as attorneys and agents for DataPlay.com with full powers of substitution, association and revocation to prosecute the application and related U.S. and foreign applications and to transact all business in the United States Patent and Trademark Office and all foreign and international patent offices connected therewith.

By:   
Steven B. Volk  
President

Dated: 2-29-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Redmond, et al.

Serial No.: 09/457,104

Filed: December 7, 1999

Atty. File No.: 4154-9

For: LOW PROFILE OPTICAL HEAD

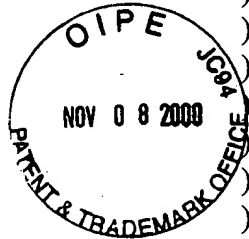
Commissioner of Patents  
Washington, D.C. 20231

Dear Sir:

Group Art Unit: 2753

Examiner:

**PETITION TO WITHDRAW FROM  
REPRESENTATION (37 CFR 10.40(c))**



**CERTIFICATE OF MAILING**

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE ASSISTANT COMMISSIONER OF PATENTS, WASHINGTON, DC 20231 ON October 2, 2000.

SHERIDAN ROSS P.C.

BY: *Maureen C. Hayward*

I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 CFR 1.36.

The mailing address of the record assignee of the entire interest is: David E. Steuber, Skjerven, Morrill, MacPherson, Franklin and Friel LLP, Suite 700, 25 Metro Drive, San Jose, CA 95110. In accordance with 37 CFR 10.40(a), a copy of this request is being sent to the record assignee. A copy of the letter to the record assignee is attached. Please change the correspondence address to the above address for David E. Steuber, Skjerven, Morrill, MacPherson, Franklin and Friel LLP, Suite 700, 25 Metro Drive, San Jose, CA 95110.

The basis for the request for withdrawal is 37 CFR 10.40(c) §§(5). That is, it is the undersigned's understanding that the assignee knowingly and freely assents to this withdrawal.

The undersigned understand there is no outstanding action in this application

This response is enclosed in triplicate.

DAC

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12-12-00  
Shw

**RECEIVED**

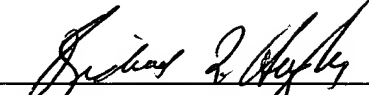
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Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

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(303) 863-9700

Date: Oct. 26 2000  
M:\4154\9\PET-withdraw rep.wpd



# SHERIDAN ROSS

A Professional Corporation

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October 27, 2000

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DataPlay, Inc.  
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Boulder, CO 80301-3319



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Re: Transfer of files for DataPlay, Inc.  
Our Files 4154

Dear Michael:

Pursuant to our discussions, the following is a list of the patent application files which we have transferred to Skjerven, Morrill, MacPherson, Franklin and Friel LLP.

SR File	PTO No.	Title	Status
4154-1	09/315,398	Removable Optical Storage Device and System	Election of Species to be handed by Skjerven Morrill
4154-1-PCT	PCT/US00/13736	Removable Optical Storage Device and System	awaiting Search Report
4154-1-TW	89109720	Removable Optical Storage Device and System	application filed and name change effected
4154-2-PROV	60/140,633	Combination Mastered and Writeable Medium and Use in Electronic Book Internet Appliance	abandoned in favor of 4154-2

SR File	PTO No.	Title	Status
4154-2	09/527,982	Combination Mastered and Writeable Medium and Use in Electronic Book Internet Appliance	response to Office Action due 11/21/00 and filing of divisional application to be handled by Skjerven Morrill
4154-2-PCT	PCT/US00/17336	Combination Mastered and Writeable Medium and Use in Electronic Book Internet Appliance	deadline for filing Amendment and Response to Search Report is 11/18/00
4154-2-TW	89112417	Combination Mastered and Writeable Medium and Use in Electronic Book Internet Appliance	Power of Attorney, Oath & Assignment and U.S. priority documents submitted to Taiwan associate
4154-3	09/393,899	Content Distribution Method and Apparatus	awaiting first Office Action
4154-3-PCT	PCT/US00/24717	Content Distribution Method and Apparatus	awaiting Search Report
4154-3-TW	89118490	Content Distribution Method and Apparatus	application filed
4154-3-CIP	09/489,084	Flexible Content Distribution Method and Apparatus	awaiting first Office Action
4154-4	09/393,150	Writeable Medium Access Control Using a Medium Writeable Area	awaiting first Office Action

SR File	PTO No.	Title	Status
4154-4-PCT	PCT/US00/24783	Writeable Medium Access Control Using a Medium Writeable Area	awaiting Search Report
4154-4-TW	89118489	Writeable Medium Access Control Using a Medium Writeable Area	application filed
4154-5	09/652,975	Double-Sided Digital Optical Disk and Method and Apparatus for Making	awaiting first Office Action
4154-8	09/560,781	Miniature Optical Disk for Data Storage	awaiting first Office Action
4154-9	09/457,104	Low Profile Optical Head	awaiting first Office Action
4154-9-CIP	09/540,657	Low Profile Optical Head	awaiting first Office Action
4154-10	09/548,128	Low Profile and Medium Protecting Cartridge Assembly	awaiting first Office Action
4154-15	09/666,616	Micro Lens and Method and Apparatus for Fabricating	awaiting first Office Action
4154-17	09/666,627	Method and Apparatus for Compensating Optical Disks for Effects of Thin Film	awaiting first Office Action

We will be filing papers in the Patent Office withdrawing from representation and instructing the Patent Office to forward future correspondence to you. Your new patent attorney will need to file a Power of Attorney and a Change of Correspondence Address.

Michael F. Braitberg  
October 27, 2000  
Page 4

U.S. Patent 5,816,809 (our file 3733-901) will have maintenance fees due at 3½, 7½ and 11½ years from the issue date. The first maintenance fee will be due April 6, 2002.

U.S. Patent 6,007,336 (our file 3733-901-DIV) will have maintenance fees due at 3½, 7½ and 11½ years from the issue date. The first maintenance fee will be due June 28, 2003.

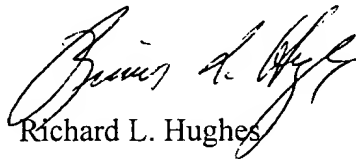
U.S. Patent Application No. 09/417,601 (our file 3733-901-CIP) was filed October 14, 1999. The first Office Action has not yet been received.

U.S. Patent Application No. 09/321,512 (our file 3733-901-DIV-2) was filed May 27, 1999. We filed a Continued Prosecution Application and Preliminary Amendment on August 17, 2000 to deal with some housekeeping issues. The first Office Action has not yet been received.

It has been a pleasure working with you, and I wish you success with your future endeavors.

Sincerely,

SHERIDAN ROSS P.C.



Richard L. Hughes

RLH:mcl  
cc: David E. Steuber  
M:\4154\LET-Braitberg-transfer files.wpd